IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SEVENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 15729 of 1997

Between:

M/s. Sri Venkata Nagendra Timber Depot & Saw Mill, Autonagar, Vijayawada, represented by its Proprietor B.Vasu.

..... PETITIONER

AND

1. The Assistant Commissioner, No.II Division, Intelligence, Vijayawada.
2. The Deputy Commercial Tax Officer-I, Autonagar, Vijayawada.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ or Order or direction and directing the Respondents to return the post dated cheques dated 830731/20-6-1997, 830729/22-9-1997, 830728/21-8-1997, 830727/21-7-1997 for Rs.50,000/- each drawn on State Bank of India, Vijayawada and also not to demand an amount of Rs.1.00 lakh towards cheque No.830730, dated 20-5-1997 drawn on State Bank of India, Vijayawada, in absence of any outstanding liability of the petitioner either admitted or disputed and in the absence of any provision in the Sales Tax Act or Rules to pay or collect advance tax towards probable future liability and direct the respondents to return all (5) cheques to the petitioner.

Counsel for the Petitioner:MR.P.GIRISH KUMAR

Counsel for the Respondents: GP FOR COMMERCIAL TAXES

The Court made the following :

ORDER: (per Hon'ble Sri Justice Bilal Nazki)

The grievance of the petitioner was that five advance cheques were obtained from him on different dates from 20-5-1997 till 22-9-1997 on the basis of inspection, without any assessment.

However, learned counsel for the respondents submits that the cheques were collected on the basis of inspection in which the petitioner had admitted the liability.

We do not think at this point of time these questions need to be answered by us, because this Court had stayed encashment of the cheques on such and such dates. The normal life of cheque is six months. Cheques cannot be encashed as on today even otherwise. However, if the respondent-department feels that the petitioner is liable for any amounts to be paid, it is not deprived of exercising its powers under the relevant law.

The writ petition is accordingly disposed of. No costs.

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(BILAL NAZKI,J)

Dated:27-10-2004

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(S.ANANDA REDDY,J)

GJ

To

1. The Assistant Commissioner, No.II Division, Intelligence, Vijayawada.
2. The Deputy Commercial Tax Officer-I, Autonagar, Vijayawada.
3. Two C.Cs. to the Government Pleader for Commercial Taxes, High Court of A.P., Hyderabad (OUT)
4. Two C.D.copies.